

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Joshua Ray Fisher,

Case No.: 2:17-cv-01154-JAD-EJY

Plaintiff

v.

**Order Dismissing Action
for Want of Prosecution**

USA,

Defendant

On February 20, 2020, the Court notified plaintiff that his case would be dismissed for want of prosecution if no action was taken by March 21, 2020.¹ Plaintiff filed nothing. District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.² A court may dismiss an action based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules.³ In determining whether to dismiss an action on one of these grounds, the court must consider: (1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the defendants;

¹ ECF No. 19 (Notice of Intent to Dismiss Under Local Rule 41-1).

² *Thompson v. Hous. Auth. of City of L.A.*, 782 F.2d 829, 831 (9th Cir. 1986).

³ *See Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

1 (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less
2 drastic alternatives.⁴

3 The first two factors, the public's interest in expeditiously resolving this litigation and the
4 court's interest in managing its docket, weigh in favor of dismissal. The third factor, risk of
5 prejudice to defendants, also weighs in favor of dismissal because a presumption of injury arises
6 from the occurrence of unreasonable delay in filing a pleading ordered by the court or
7 prosecuting an action.⁵ A court's warning to a party that its failure to obey the court's order will
8 result in dismissal satisfies the fifth factor's "consideration of alternatives" requirement,⁶ and
9 that warning was given here.⁷ The fourth factor—the public policy favoring disposition of cases
10 on their merits—is greatly outweighed by the factors favoring dismissal.

11 Accordingly, IT IS HEREBY ORDERED that **this action is DISMISSED** without
12 prejudice for want of prosecution. The Clerk of Court is directed to CLOSE THIS CASE.

13 Dated: April 21, 2020

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15 U.S. District Judge Jennifer A. Dorsey
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21 ⁴ *Ghazali*, 46 F.3d at 53; *Ferdik*, 963 F.2d at 1260–61; *Malone*, 833 F.2d at 130; *Henderson*, 779
22 F.2d at 1423–24; *Thompson*, 782 F.2d at 831.

⁵ See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

23 ⁶ *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

⁷ ECF No. 19.